IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1121 of 1995
in
SPECIAL CIVIL APPLICATION NO 13498 of 1994
with
CIVIL APPLICATION NO 2988 of 1995
in
LETTERS PATENT APPEAL NO 1121 of 1995
with
SPECIAL CIVIL APPLICATION NO 13498 of 1994
with
LETTERS PATENT APPEAL NO 759 of 1995
with
SPECIAL CIVIL APPLICATION NO 13691 of 1994
with
SPECIAL CIVIL APPLICATION NO 13499 of 1994
AND
SPECIAL CIVIL APPLICATION NO 13544 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

ATUL V TRIVEDI

Appearance:
1. LETTERS PATENT APPEAL No. 1121 of 1995
MR PR ABICHANDANI, AGP, for Appellant No.
RULE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 10/08/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

1. H.L.Gokhale, J. passed common interim order dated 23.2.1995 in 10 writ petitions, viz. Special Civil Applications No.600, 804, 805, 862 and 865 of 1995 and 13498, 13499, 13591, 13645 and 13691 of 1994. The above LPA 1121 of 1995 is filed in Special Civil Application No.13498/94, whereas another LPA 759/95 is filed in Special Civil Application No.13691/94 by the Appellant State of Gujarat and Superintending Engineer, challenging the aforesaid common order dated 23.2.1995, passed by the learned Single Judge of this Court.

2. On 5.8.2004 learned AGP Shri P.R.Abichandani for the Appellants places on record the letter dated 23.7.2004, addressed by Shri S.H.Shah, Dy.Executive Engineer, Gandhinagar, to the Government Pleader of this Court, enclosing therewith the letter dated 23.7.2004, addressed by Shri Atul V.Trivedi, original petitioner of Special Civil Application No.13498 of 1994 - present respondent in LPA No.1121 of 1995, stating that he was already absorbed, therefore, his petition, as well as the main Appeal, would not survive. In view of the aforesaid letters learned AGP Shri Abichandani was asked to keep personally present Shri Atul V. Trivedi before this Court, who remained present personally before this Court on 5.8.2004. On being asked, he stated that not only he, but all other petitioners have been absorbed.

3. In view of the above, all the matters would have been disposed of, but it was brought to our notice by learned AGP Shri Abichandani that many other similar Appeals, filed against the common order dated 23.2.1995, passed by the learned Single Judge of this Court, were filed or not and if they were filed, they were pending or not. He was also not aware that after absorption of the respondent - original petitioner in the main writ petition whether their main writ petitions were still

pending or not before the learned Single Judge. In view of this, office was directed to find out whether the Appellants have filed such Appeals against the common order dated 23.2.1995, passed by the learned Single Judge in other writ petition or not, and if they were filed, they were ordered to be placed on today i.e. on 10.8.2004 along with those main 10 writ petitions, if they are not disposed of so far and pending for final disposal.

4. In pursuance of our order dated 5.8.2004 the office has brought to our notice that LPA No.1122/95, filed in Special Civil Application No.862/95 is still pending, but the papers of the same were not traceable, therefore, they are not in a position to place it before this Court. In view of this, office is directed to trace out missing papers of LPA 1122/95 in Special Civil Application No.862/95 and also the papers of main Special Civil Application No.862/95 and place it before this Court for orders on 13.8.2004, if they are yet pending and not disposed of so far.

5. Office has also brought to our notice that LPA (ST) No.4997/95, filed in Special Civil Application No.13591/94, could not be placed on Board today as the papers of the same are not traceable so far. Similarly, the papers of LPA No.759/95, filed in Special Civil Application No.13691/95 are not traceable and, therefore, they are not placed on Board today along with these matters. Similarly, the papers of 3 other main writ petitions i.e. Special Civil Applications No.862/95, 13498/94 and 13499/94 are also not traceable and they are not placed on Board today. It is really sorry state of affairs that though on 5.8.2004 the Office was directed to trace out all the matters and place them on Board today, the Office has not traced the papers and not placed the same before this Court. Hence, last opportunity is given to the office to place all these matters i.e. Letters Patent Appeal and Special Civil Applications, the papers of which are missing, on the Board on 13.8.2004 without fail, failing which the matters will be viewed seriously.

6. However, this should not detain us any more from disposing of the matters in view of the solemn statement made at the Bar by learned AGP Shri Abichandani that all the original petitioners have been absorbed, not only that some of them have been further promoted to the higher post, the Appeals as well as main writ petitions would not survive any more.

7. In view of the above, all these matters are disposed of as having not survived any more. Once the LPA No.1121/95 and LPA No 759/95 are disposed of then the above writ petitions i.e. Special Civil Applications No.13498/94, 13499/94 and 13544/94 have to be disposed of and accordingly they are disposed of as having not survived. Rule issued in all these petitions stand discharged. Interim relief granted earlier stands vacated.

When the main LPA No.1121/95 is disposed of then Civil Application No.2988/95, filed in LPA, will not survive and accordingly, it is disposed of.

(B.J.Sh

Date : August 10, 2004

(M. C. Patel, J.)

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